

REMARKS

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

PENDING CLAIMS

Claims 1, 2 and 5-7 were pending, under consideration and subjected to examination in the Office Action. At entry of this paper, Claims 1, 2 and 5-7 will be pending for further consideration and examination in the application.

REPLACEMENT TITLE

The title has been objected to because of the Office Action concerns listed within the Item 1 on page 2 of the Office Action, i.e., as not being sufficiently descriptive. As the foregoing replacement title is believed to be sufficiently descriptive of the invention to which the claims are directed, reconsideration and withdrawal of the objection to the title, are respectfully requested. In the event that the present replacement title is itself found not to be sufficiently descriptive, the Examiner is herein authorized to amend to a suitable replacement title.

PROV. DBL. PAT. REJECTIONS. – TRAVERSED/NOT SUPPORTED

The non-statutory double patenting rejections regarding the 10/192,696, 10/192,717 and 10/192,652 applications are respectfully traversed because such rejection does not provide the factual analysis required for such rejections under U.S. patent law, i.e., the Examiner has not satisfied his/her initial burden to

adequately support the rejection. More particularly, MPEP 804 providing double-patenting rejection guidance for examining states that

“Since the analysis employed in an obviousness-type double patenting determination parallels the guidelines for a 35 USC 103(a) rejection, the factual inquiries set forth in *Graham v. John Deere Co.*, 383 US 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 USC 103 are employed when making an obviousness-type double patenting analysis. These factual inquiries are summarized as follows:

(A) Determine the scope and content of a patent claim and the prior art relative to a claim in the application at issue;

(B) Determine the differences between the scope and content of the patent claim and the prior art as determined in (A) and the claim in the application at issue;

(C) Determine the level of ordinary skill in the pertinent art; and

(D) Evaluate any objective indicia of non-obviousness.

Any obviousness-type double patenting rejection should make clear:

(A) The differences between the invention defined by the conflicting claims - a claim in the patent compared to a claim in the application; and

(B) The reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent.”

The rejection does not make clear the differences, or the reasons why a person of ordinary skill in the art would conclude that the invention defined in the claim in issue is an obvious variation of the invention defined in a claim in the patent.

Accordingly, Applicant respectfully submits that the above analysis should be provided in order for the Examiner to satisfy his/her initial burden to support the rejection, or the rejection should be withdrawn.

PROV. DBL. PAT. REJECTIONS – TRAVERSED/PROVISIONAL

It is respectfully noted that any present double-patenting rejection(s) regarding the 10/192,696, 10/192,717 and 10/192,652 applications are only a “provisional” double-patenting rejection. As a result, Applicant respectfully submits a

traversal, but refrains from commenting further on a substance of the rejection at this time (other than the traversal below), until an actual double-patenting rejection is made.

If a situation arises where the only remaining issue blocking allowance is the double-patenting rejection(s), the Examiner is herein requested to telephone the Undersigned at the local Washington, D.C. area telephone number of 703-312-6600, for the possible immediate preparation/filing of a terminal disclaimer to move the application to allowance.

ALL REJECTIONS UNDER 35 USC '102 AND '103 - TRAVERSED

All 35 USC rejections (i.e., the 35 USC '102 rejection of claim 7 as being anticipated by Ando et al. (U.S. Patent 6,353,702); and, the 35 USC '103 rejection of claims 1, 2, 5 and 6 as being unpatentable over Ando et al. (U.S. Patent 6,353,702) in view of Saeki et al. (U.S. Patent 6,078,727)) are respectfully traversed.

All descriptions of Applicant's disclosed and claimed invention, and all descriptions and rebuttal arguments regarding the applied prior art, as previously submitted by Applicant in any form, are repeated and incorporated hereat by reference. Further, all Office Action statements regarding the prior art rejections are respectfully traversed. As additional arguments, Applicant respectfully submits the following.

Applicant' respectfully points out that Ando et al (U.S. Patent No. 6,353,702) is an improper reference and is not a prior art under 35 U.S.C. 102(e). More particularly, the U.S application date (July 7, 1999) of Ando et al is later than the priority date (August 7 and 20, 1998) of the present application, Furthermore, a first

recording time (FIRST..VOB...REC_TM) and a last recording time (LAST_VOB_REC_TM) relating to Fig. 30 which have been referred to by the Examiner as the basis of rejection, are not disclosed in Ando et al.'s priority document (Japanese Patent Application JP10-192063; copy submitted herewith, with Form PTO-1449 for examiner initialing). That is, the priority document JP 10-192063 of Ando et al does not contain drawings corresponding to Figs. 24-38 of Ando et al (U.S. Patent No. 6,353,702). The disclosures relating to Figs. 24-38 were first incorporated in the U.S. application of Ando et al and open to public first on March 5, 2002 which is the U.S. publication date of Ando et al. Accordingly, it is respectfully submitted that the disclosures of Ando et al specified by the Examiner as the basis of U.S.C. 102(e) rejection are not prior art of the present invention.

In order to properly support a '102 anticipatory-type rejection, any applied art reference must disclose each and every limitation of any rejected claim. The applied art does not adequately support a '102 anticipatory-type rejection because, at minimum, such applied art does not disclose (or suggest) the following discussed limitations of Applicant's claims.

As a result of all of the foregoing, it is respectfully submitted that the applied art would not support a '102 anticipatory-type rejection or '103 obviousness-type rejection of Applicant's claims. Accordingly, reconsideration and withdrawal of such '102 and '103 rejections, and express written allowance of all of the rejected claims, are respectfully requested. Further, at this point, it is respectfully submitted as a reminder that, if new art is now cited against any of Applicant's unamended claims, then it would not be proper to make a next action final.

EXAMINER INVITED TO TELEPHONE

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

RESERVATION OF RIGHTS

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

CONCLUSION

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 500.37453CX3) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

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